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WORKSHOP
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
SUSTAINABILITY AND MARKET DEVELOPMENT COMMITTEE
WORKSHOP TO DISCUSS POTENTIAL IMPACTS/ISSUES RELATED
TO PROPOSED DISPOSAL REPORTING SYSTEM
REGULATIONS REVISIONS

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL VALLEY HEARING ROOM
SACRAMENTO, CALIFORNIA

TUESDAY, APRIL 12, 2005
10:30 A.M.

TIFFANY C. KRAFT, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosario Marin

Ms. Cheryl Peace

Mr. Carl Washington

BOARD MEMBER ALSO PRESENT

Ms. Rosalie Mul

STAFF

Ms. Julie Nauman, Chief Deputy Director

Ms. Marie Carter, Chief Counsel

Mr. Elliot Block, Staff Counsel

Mr. Howard Levenson, Deputy Director

Mr. Pat Schiavo, Deputy Director

ALSO PRESENT

Ms. Yvette Agredano, California Chapters of SWANA

Mr. Martin Aiyetiwa, Los Angeles County Department of
Public Works

Mr. Arthur Boone, Total Recycling

Mr. Evan Edgar, California Refuse Removal Council

Mr. George Eowan, California Refuse Removal Council

Mr. Donald Gambelin, Norcal Waste Systems

Ms. Melanie Gerber, Riverside County Waste Management

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Jim Greco, Independent Consultant, California Waste Associates

Mr. Chuck Helget, Allied Waste and BFI

Mr. Gerard Kapuscik, Ventura County Environmental and Energy Resources Department

Mr. Doug Kobold, Sacramento County

Mr. George Larson, Waste Management

Mr. Bob Naylor, Waste Management

Mr. Scott Smithline, Californians Against Waste

Mr. Mark White, Pacific Waste Consulting Group

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1 PROCEEDINGS

2 CHAIRPERSON MARIN: Welcome back. Actually,
3 while this is part of the Sustainability and Market
4 Development Committee, it's really a workshop that we
5 scheduled to deal with the DRS regulations.

6 I want to thank everybody. This has been a long
7 and arduous process. My understanding is that these
8 regulations have been in the hopper for almost four years,
9 if not more than that. And we are now at a point where I
10 believe we can move forward with the agreement that this
11 is a very, very good compromise. I know that we may still
12 not have 100 percent buy-in from everybody, but enough
13 support to move forward.

14 And with that, I'd like to certainly thank staff
15 who diligently worked through every single issue that was
16 relevant to our mandate. And especially like to thank our
17 legal counsel who courageously led us through these muddy
18 waters. And, anyway, I'm very happy with the results that
19 we have.

20 Both Elliot and you, Pat, deserve a lot of
21 credit, a lot of time. And our stockholders -- I know
22 people call them stakeholders. But as far as I'm
23 concerned, they're our stockholders. I believe that the
24 result of that hard work, they should be very happy with
25 that.

1 So you want to move us forward item by item.

2 DEPUTY DIRECTOR SCHIAVO: Sure. I jotted down
3 some notes for how we want to run the process. First of
4 all, I would like to thank all the staff that have worked
5 on this. It's been an awful lot of staff time. Lorraine
6 and Sherrie and Diane and gang have done a tremendous job.

7 As I mentioned, the meeting is 10:30 to 12:30.
8 We want to be relatively quick. We have paused the formal
9 regulatory process. This is an informal workshop. We'll
10 resume the formal process in May with the 15-day
11 notification.

12 Today is going to focus on the Issue Paper. If
13 you didn't get a copy on the website, there's copies for
14 you in the back of the room. There's 14 issues that have
15 been addressed. I affectionately call them the 14
16 items -- you know, 14 pieces of light or whatever. The
17 meeting today is going to focus on addressing these items.

18 Slides today will focus on those 14 items, and
19 they're going to be grouped. You'll notice the first
20 slide will show five items on the one slide. And I'll go
21 through and read them. I'm going to be reading them
22 because we have a lot of people out in web land who
23 couldn't make it today but are listening. So I want to
24 read them verbatim just in case they don't have the slides
25 in front of them.

1 If those people do want to comment, they do have
2 the opportunity to comment here at the Board via e-mail.
3 And we'll read that out as we go through each slide. And
4 they can e-mail us, too. And the web address is
5 coastalrm@calepa.ca.gov. That's also on the notice that's
6 there in front of people listening on the web.

7 We want to present each slide. I will read the
8 slide again. And then we're going to ask for comments
9 from people in the audience. We want to just hear one
10 similar comment. We don't want a lot of repetition of the
11 same theme. We just want it one time. We have somebody
12 with a roving mic that will come to you. So raise your
13 hand when you want to speak. We'll call on you, and that
14 mic will be presented to you. That will help save some of
15 the time.

16 At the conclusion of each slide, then it will be
17 open -- and after everybody has made their public comment,
18 then it will be opened up for Board members to make any
19 kind of comments or observations they have regarding that
20 slide.

21 We'll be accepting additional comments. We set
22 that date for April 15th, so you better make sure you have
23 your taxes done on time. And it's 5:00, April 15th for
24 any additional comments, and then we're going to
25 incorporate whatever seems to make the most sense to us in

1 that set of regs for the 15-day notice in May. And that's
2 pretty much it.

3 As far as where to send the comments, that will
4 be on the last slide presented today. If you're on the
5 website, it's in the packet that's on the website.

6 So are there any comments regarding the process?

7 Also, if you do anticipate speaking today, go
8 ahead and submit a speaker slip one time so we make sure
9 that our reporter has the correct spelling of your name.
10 And then after you do it the one time, we won't need it
11 anymore. Okay. Thank you.

12 (Thereupon an overhead presentation was
13 presented as follows.)

14 DEPUTY DIRECTOR SCHIAVO: Go ahead and begin with
15 the first slide. And, again, I'll read this and just
16 throw out a few pieces of information to clarify it a
17 little bit.

18 This first slide is haulers' responsibility to
19 identify the origin and material types for all loads of
20 certain waste types. The issue that was raised here is it
21 wasn't really clear what our intent was to focus on
22 segregated loads of waste delivered to the facility. And,
23 again, that was the intent. But it wasn't clear enough
24 for some people. So we're trying to clarify that.

25 The second item is alternative daily cover,

1 alternative intermediate cover, beneficial reuse, and
2 disaster waste definitions. The suggestion there was to
3 tie those to Title 27 regs used for permits and
4 enforcement. We can go ahead and do that, but we still
5 have to address the accounting of those waste types in
6 these regs in a different location. But, again, that's
7 very doable. And it doesn't change the intent of what
8 we're trying to do.

9 The third item on the slide is volumetric
10 conversion factor requirements. We have an annual
11 requirement right now. It was suggested that five years
12 would be sufficient. Again, that it's a matter of
13 opinion.

14 The fourth item is commercial hauler terminology.
15 It was raised that using the term "commercial hauler" is
16 confusing, because we do use it for different
17 applications. We've been soliciting comments on that. We
18 do have a suggestion on that. One other suggestion was
19 that using a one ton limit and having anybody who hauls
20 more than one ton who's not defined as what we have as a
21 substitute language for commercial hauler be registered
22 within a jurisdiction.

23 Then the fifth item is clean and contaminated
24 soil and simplify those and treat them similarly.

25 Let's go ahead and open up for comments regarding

1 these five items. And, again, they're addressed in order
2 in the issue paper that was on our website, as well as in
3 the back of the room.

4 MR. KAPUSCIK: Good morning, Chair Marin. Gerard
5 Kapuscik with Ventura County Environmental and Energy
6 Resources Department.

7 At the time of the first World War, Woodrow
8 Wilson identified twelve points of light. Perhaps you
9 could consider these 14 points of justice. These are very
10 important descriptive aspects of what is very important in
11 measuring this critical equation of disposal plus
12 diversion equals generation.

13 With respect to your first slide, I have one
14 comment, and that is on the first item. And it is
15 comparable to the fact that we are in income tax season
16 and it is based on the honesty of individual citizens
17 reporting. So is DRS. It is grounded on hauler-based
18 honesty, hauler-based accuracy, and hauler-based
19 precision. And if the intent here is to fulfill the Old
20 Testament -- that is to say, build on disposal as measured
21 by the hauler for these loads, Ventura County certainly
22 reports it. We in the jurisdictions are responsible to
23 demonstrate to you whether or not we have documented
24 approval of the attainment, must have hauler-based
25 accuracy, precision, and geographic origin of all loads in

1 order to do that. If we have to spend valuable time
2 backtracking where they come from by talking to landfills
3 and MRFs, it is consuming an extraordinary amount of time.

4 The flip side to this is while it is not listed
5 on here, your requirement for MRFs to provide disposal
6 reporting is absolutely essential. And we in Ventura
7 County have worked with our MRFs to cut that time from two
8 weeks to less than a day. It can be done. We have saved
9 them money. We have saved ourselves money. It requires
10 transparency, partnership, the use of technology, and
11 rolling up our sleeves to get the job done.

12 If your intent here is to clarify that your
13 haulers have to require jurisdiction of origin of these
14 loads, we certainly support that. We would take the
15 position all loads have to be identified by the hauler,
16 because that's where the waste was generated, and that's
17 where the law and the regulations require jurisdiction of
18 origin to reflect accuracy.

19 Thank you.

20 DEPUTY DIRECTOR SCHIAVO: Other comments on the
21 first five slides?

22 MR. LARSON: George Larson representing Waste
23 Management.

24 A comment Pat already has raised on Item Number
25 4, Waste Management did submit and today is reaffirming

1 their desire to have clarification in the definition of
2 commercial hauler and have made the suggestion to Pat that
3 possibly utilizing the same definition and using it to
4 define a term contract hauler might alleviate some of the
5 confusion as to what it really applies to.

6 So that would be my comment. Thanks.

7 CHAIRPERSON MARIN: And that has been
8 acknowledged. Thank you.

9 MR. HELGET: Chuck Helget representing Allied
10 Waste and BFI.

11 Just a general comment about this slide. And
12 that is that I most certainly agree with the first
13 speaker's comments about being able to gather this
14 information and report it accurately. Not only is it a
15 burden on local jurisdictions, but it is a burden on all
16 of our facilities as well. And chasing every ton has
17 created any number of problems for any number of our
18 facilities.

19 So I would say yes, we want to be able to
20 identify loads. And we should and will be asking those
21 questions about where loads are coming from. But we also
22 need to balance that with some reasonableness in the
23 system. And we are never -- because it is an
24 honesty-based system, we are never ever going to be able
25 to 100 percent accurately track every pound of waste

1 that's out there. And I don't believe that should be the
2 objective of the Disposal Reporting Systems Regulations.
3 Reasonable accuracy so that we can determine whether or
4 not programs are being implemented effectively is what, at
5 least I would suggest, the objective for these regulations
6 should be.

7 DEPUTY DIRECTOR SCHIAVO: Other comments on the
8 first five slides?

9 MR. GAMBELIN: Donald Gambelin with Norcal Waste
10 Systems. Good morning.

11 Just comments on Number 2, 3, and 5. Brief
12 comments. But we raised some issues with staff, and they
13 seem to be amenable to some changes. As far as ADC, AIC,
14 and beneficial use, we'd like to see those definitions
15 just refer to Title 27 definitions that have been worked
16 out through stakeholders' meetings and public input in
17 previous regulatory packages. So I think it's appropriate
18 to not try to redefine them for the specific purpose here.

19 With respect to volumetric conversion factors, we
20 actually identify this -- and our apologies. We
21 identified it fairly recently. But some of the volumetric
22 conversion factors I think inappropriately referred to
23 looking at conversion factors by vehicle type, as opposed
24 to by waste type. And what we found through our
25 experience is that a pickup truck, whether it carries

1 dirt, concrete, or just carries household green waste, is
2 going to vary considerably in its weight. So we've always
3 at our facilities based conversion factors on waste type
4 rather than vehicle type.

5 The other issue here is how often do you have to
6 recalculate those conversion factors. And we think that
7 once every five years is adequate in that the density and
8 the weight of the various waste types don't tend to change
9 much over time. And that a five-year period to set
10 conversion factors based on waste type would be most
11 appropriate and provide the level of accuracy that
12 everyone desires.

13 And then, finally, as far as clean and
14 contaminated soils, the draft reg package broke those two
15 out, and in breaking those two out left me, when I first
16 read it, with the impression they were going to be treated
17 somewhat differently. When you actually get into the
18 regulation, they're treated exactly the same. They're
19 essentially off the table for purposes of DRS. They don't
20 count, and they don't not count. They're just part of the
21 landfill construction.

22 And in other regulatory issues, both clean and
23 contaminated soil is just simply considered soil for the
24 purposes of construction. And to break out those as
25 different definitions, again, seems to lend confusion to

1 the regs. So we've suggested we just refer to both clean
2 and contaminated soil, and then address it appropriately
3 in the DRS regs as they are now rather than separating
4 those.

5 Thank you.

6 DEPUTY DIRECTOR SCHIAVO: Any additional
7 comments, or we'll conclude this slide?

8 Board members, any comments?

9 CHAIRPERSON MARIN: No. I mean, I'm very
10 familiar with all of this, because I was involved with
11 them. But I think that we have agreed to their comments,
12 and they will be reflected in the regulations that come
13 forward.

14 So for the people that don't know, this has been
15 a very incredibly taxing process for everybody involved.
16 But we understand the concerns that people have raised,
17 and we have worked diligently to address their concerns.
18 And we have come to some agreement, and it's all reflected
19 in the paper that everybody has. So I want to thank
20 everybody for their participation.

21 BOARD MEMBER WASHINGTON: If I can just add that
22 we do understand -- as regulators, we do understand that
23 when we open up ourselves to allowing people to be honest
24 to us, that as Chuck has said -- I'm sorry. I'm looking
25 at you, Chuck Helget. As Chuck has said that, you know,

1 we know that with allowing people to be honest to us that
2 perhaps we have to be open to making sure that we
3 understand that we might not just get 100 percent. So we
4 do really understand that as regulators, and we're willing
5 to work with folks and open ourselves to allowing people
6 to be honest with us.

7 DEPUTY DIRECTOR SCHIAVO: So we'll move on to the
8 next slide. And this is Items 6, 7, 8, and 9 in your
9 packets.

10 The first one deals with off-site weighing for
11 transfer station. The suggestion here is to allow -- you
12 know, if there's no scales at the transfer station, allow
13 the loads of waste to be weighed at destination landfills.
14 And rather than have the Board notified before this
15 activity takes place, just go ahead and make it a course,
16 just a regular business course, and just move on from
17 there.

18 The second item, or Item Number 7, is raising the
19 weight requirement threshold to 12 cubic yards from six
20 cubic yards, or one ton. That says it all right there.

21 Number 8 is training requirements. The current
22 regulations are fairly detailed on what is required. It's
23 been suggested that we generalize and that everybody
24 shall, you know, provide training, but not prescribe what
25 that training looks like and the frequency, et cetera.

1 And then Number 9 is signage requirements. What
2 we've heard is people have too many signs already, and
3 they would like to change the requirement from shall to
4 may use signage where they find it necessary.

5 So go ahead and open it up to comments regarding
6 the second slide.

7 MR. KAPUSCIK: Thank you. Good morning, Madam
8 Chair. Gerard Kapuscik with Ventura County Environmental
9 Energy Resources.

10 My comment has to do with Number 8, training
11 requirement. I think this is an absolutely essential
12 requirement, and I think actually more needs to be done
13 than what is proposed. I understand the importance of
14 balancing a generic requirement with site specific
15 facility and hauler specific.

16 But let me give you a very brief story that's
17 happening right now which illustrates the lack of
18 training, had it been present, might have avoided. As you
19 are well aware, between now and May 15th, we are all
20 working diligently with haulers, facilities, and
21 jurisdictions to finalize the DRS default numbers, which
22 hopefully all of us are trying to make as accurate as
23 possible with all the caveats so none of us have to do
24 disposal reporting modification forms with our annual
25 reports to say we disagree with the DRS number. We're all

1 supposed to be working on that.

2 There is a facility in L.A. County whom we have
3 contacted. The jurisdictions impacted by this have agreed
4 that the tons belong here and not there. The hauler has
5 documented it. The facility says, "We never make
6 changes." If those folks are trained, they would
7 understand they do need to make changes to those
8 requirements. Otherwise, the default numbers become a
9 problem.

10 Now, I understand in L.A. County, with thousands
11 of haulers and hundreds of jurisdictions, you can't make
12 changes all the time. But there ought to be a period of
13 time that each landfill, MRF, and what have you which has
14 received, verified by hauler and jurisdiction, changes,
15 reflect that in what is sent to the disposal reporting
16 coordinator and to the State. Otherwise, Mr. Washington,
17 that initial number is not only within unreasonable
18 accuracy, it is wrong.

19 So training is critical. And we need to work on
20 that. And I would suggest the Waste Board consider
21 partnering with the hauler industry, trade association,
22 the MRF associations, the recycling trade association to
23 develop some sort of a generic training curriculum, not a
24 bureaucrat requirement of A, B, C, D, and F. But a
25 generic criteria of what the regulations mean.

1 Disposal is the only thing that's measured, not
2 diversion, every year, diversion and base years. Disposal
3 is every year. It must be as accurate and as reasonable
4 as possible. And, yes, it's not going to be 100 percent,
5 but we've got to cooperate. We've got to know what our
6 requirements are. You've got to help us do that. And
7 we've got to help you do that.

8 MR. LARSON: George Larson, Waste Management.

9 Waste Management endorses staff's recommendations
10 on Item 8 and 9. Thank you.

11 MR. GAMBELIN: Donald Gambelin, Norcal Waste
12 Systems.

13 Staff's recommendations on Item 6, I believe, are
14 agreeing with our comments that off-site weighing should
15 be essentially a matter of right as opposed to asking
16 permission to do so, provided appropriate notification is
17 made to the LEA that we're weighing off site. We have a
18 number of operations that, for instance, weigh at our
19 transfer stations or at a remote landfill and just take
20 the data from one of those sources as reporting to DRS.
21 And we'd like to be able to continue that, again, as a
22 right through this regulation, with proper notification,
23 rather than having to go through a process to try to gain
24 approval from that with the potential for being denied.

25 So we support staff's recommendation on that.

1 Thank you.

2 MR. HELGET: Very briefly on the training
3 requirements, I'm not sure I disagree with the first
4 speaker that staff, working together, could develop some
5 sort of general training syllabus everyone could use.

6 The issue that was raised there is, the more
7 requirements we get and regulations, the more there are
8 issues that we can be dinged for and violations can be
9 accumulated for. And our concern was that, among all the
10 other things we have to worry about running landfills and
11 transfer stations and making sure they're run in a very
12 environmentally safe way, we didn't think that a specified
13 requirement to have your gate house operators trained on
14 the details of the Disposal Reporting System regulations,
15 when we've had months of trying to understand exactly what
16 they do, would make a whole lot of sense. So, yes,
17 general requirements about how important it is to identify
18 ways to accurately -- there's a whole system here that
19 requires accuracy. I don't think we have any problems
20 with that at all.

21 Very briefly on Item 7, the suggestion to go to
22 12 cubic yards comes from the need at some facilities to
23 not have traffic backlogs and jam-ups off the facility,
24 which trucks have to be required. We're asking that 12
25 cubic yards be the standard. We believe it's much easier

1 to identify that truck a light industrial, and
2 ton-and-a-half truck with side to side panels, rather than
3 weighing every small pickup that comes into the facility.
4 Not only do you weigh them in, but you weigh them coming
5 out.

6 And I can only speak for my client. We have a
7 number of facilities that would create incredible traffic
8 problems, particularly weighing the trucks coming out.
9 And we have also a number of facilities that are fairly
10 close to main thoroughfares, potentially problems there.

11 So, again, how much detail do we need? It's not
12 these aren't going to be calculated. We're going look at
13 those trucks and say that's a 12 cubic yard truck. That
14 is the equivalent of so many tons and assign that weight
15 to the jurisdiction. We're going to ask those trucks
16 where their origins of waste comes from. We're not going
17 to be weighing them coming in and coming out.

18 MS. GERBER: Melanie Gerber, Riverside County
19 Waste Management.

20 I just want to state that too much training
21 sometimes -- I think training based on needs is really
22 important. A lot of the people don't need as much
23 training as others. People who work in the office versus
24 out at the sites. And I think it actually would be a
25 problem to train these people. Actually is too much

1 information for our people. I think that if -- I'm
2 repeating myself. I think if we decided that the
3 customers coming in need more information, I almost think
4 a flier might be better to hand out. That's just our
5 point.

6 MS. AGREDANO: Hi. Yvette Agredano with the
7 California Chapters of SWANA.

8 We are supportive of staff's recommendations on
9 Issue Number 7 relating to raising the threshold to 12
10 cubic yards. We would like to work with staff relating to
11 the mandatory scale requirement. We think there hopefully
12 would be room for some movement on the language trying to
13 perhaps create an exemption for facilities that only
14 accept loads of less than 12 cubic yards. So we'll be
15 submitting some comments formally. Thanks.

16 DEPUTY DIRECTOR SCHIAVO: Additional comments?

17 Any Board member comments or observations?

18 CHAIRPERSON MARIN: You know, yesterday at our
19 Committee of Permitting and Enforcement, we were talking
20 about training. And I know staff is going to be bringing
21 that back. I agree with everybody that believes training
22 needs to be on an as-needed basis. It needs to be focused
23 and it needs to be specific.

24 But on the other hand, I'm sensitive to the fact
25 that if we make it a regulation, then for some reason if

1 somebody doesn't meet that, industry then will be
2 completely and totally penalized for that, when it may not
3 have the impact of -- it may not be a big deal. But it
4 becomes a big deal, because then they're not meeting the
5 regulations. So we need to balance that.

6 On the one hand, the Board believes we're going
7 to have some further training. But it needs to be the
8 training that is needed. There will be opportunities for
9 the DRS training, and we will work with everybody that
10 needs to be trained on that, when and if necessary.

11 I think that sometimes, you know, we need to be
12 careful with what we ask, because we just might get it.
13 And so I believe that we have reached a compromise in that
14 regard, and I believe that we need to move forward. And
15 if this is something that is needed and required, then we
16 will have the tools necessary to ensure that is
17 accomplished. But we are ready to work with both sides of
18 the aisle, if you will. Okay.

19 DEPUTY DIRECTOR SCHIAVO: With that, we'll move
20 on to the next slide.

21 --o0o--

22 DEPUTY DIRECTOR SCHIAVO: And this is Items 10
23 and 11.

24 Number 10 is consideration for a later effective
25 date for the regulations. It was suggested April 1st,

1 2006. The reason for that extended date was in the event
2 that there is an alternative 939 system that comes into
3 play, there's opportunity for a little breathing room. We
4 talked in terms of writing some kind of contingency
5 language, because if that doesn't happen, we'll know that
6 well before that particular date.

7 On Number 11 has to do with landfill capacity.
8 This is a product of the State Auditor criticizing the
9 Board for not having landfill capacity information during
10 the permitting process. That was suggested -- or
11 permitting process regulations. It was suggested that
12 probably the most appropriate place to put in any kind of
13 regulatory language would be in the Disposal Reporting
14 Regulations, because all we have to do is add one line,
15 and it's already submitted to us automatically every
16 quarter. And then we talked in terms of the intent of
17 that information, what it would be used for and not be
18 used for. And hopefully we clarified that.

19 So suggestions regarding these two slides?

20 MR. EDGAR: Evan Edgar representing the
21 California Refuse Removal Council. We represent 100
22 different member companies that are collectors and 50
23 transfer stations, MRFs, that we're heavily involved with
24 collection of data, and generally support the first ten
25 items that have come forth. They're neither burdensome

1 nor onerous in order to comply with the DRS regulations
2 for the first ten items.

3 And regarding Item Number 10, the 1-1-06 date, we
4 would support, because there is a lot of activity at the
5 Capitol regarding AB 939 in the future. And should there
6 be any type of changes over there, that 1-1-06 date would
7 be a clean date for a new calendar year and accommodate
8 any statute changes that may or may not occur. So we
9 support the 1-1-06 date.

10 MR. SMITHLINE: Good morning. Scott Smithline
11 with Californians Against Waste. I just want to make a
12 brief comment.

13 The purpose of this is to increase information,
14 basically. To give us more information about the state of
15 solid waste in the state. To the extent that requires
16 additional signage, we support it. To the extent it
17 requires additional training, we support it. We also
18 support identifying the source of the solid waste,
19 including the daily origin and reporting of that, as well
20 as the source and material type of ADC, AIC, and
21 beneficial reuse. So we support all those things.

22 Thank you.

23 MR. NAYLOR: I'm Bob Naylor representing Waste
24 Management.

25 First let me compliment the staff on what I think

1 is overall a thoughtful response to a lot of the earlier
2 comments.

3 With respect to the later effective date, as I
4 understand it, the Board is now engaged in a process to
5 come up with potentially its recommendation on alternative
6 diversion compliance. From a legislative calendar
7 standpoint, that may mean that your recommendations won't
8 be available for legislative consideration until toward
9 the end of this session and probably too late for serious
10 legislative action. So that would mean that the
11 legislation would start at the first of next year.

12 While I really appreciate the April 1st, 2006,
13 concession, I'm not sure what you do if in March of 2006
14 your bill is being seriously considered by -- maybe it's
15 Simitian and his author. He seems to want to be a Byron
16 Sher legacy implementer. So I would just ask to consider
17 whether you shouldn't have a later date. You can adopt
18 the regs now, but have a later implementation date to
19 reflect the legislative schedule.

20 MR. KAPUSCIK: Good morning, Madam Chair. Gerard
21 Kapuscik with Ventura County again.

22 Nothing is as important and impactful as an idea
23 whose time has come and the idea of it making measurement
24 more accurate, precise, and just is long overdue. I do
25 think that a 1-1-06 date makes the most sense, because the

1 law, the regulations, require annual reports. And guess
2 what? The annual report is the calendar year. So we're
3 changing the regulations to require the precision,
4 accuracy, and justice that are inherent in these
5 requirements and these suggestions are an important thing.

6 Recognize that in the interregnum, jurisdictions
7 are going to be telling you because of partially not
8 adjusting these regulations to reflect more accurate
9 measurement, perhaps our diversion attainment numbers are
10 less accurate and precise. During that interregnum,
11 you're probably going to hear that from jurisdictions that
12 come to you for biannual report reviews or new base years
13 or what have you. So I think that certainly tying it to
14 the calendar year makes a great deal of sense.

15 As to what the Legislature in its wisdom will do
16 and what you will do, who knows. So I'm not sure waiting
17 for that makes much sense, because these are known
18 problems. We're all working together. Adopting
19 regulations effective 1-1-06 requires, forces,
20 incentivizes public/private, as you said, both sides of
21 the aisle -- I look at it as all on the same team -- to
22 get these numbers as accurate as possible so you don't
23 have to be Solomons all the time figuring out where the
24 tons belong when reports come to you. Thank you.

25 MR. GAMBELIN: Don Gambelin, Norcal Waste

1 Systems.

2 I want to comment on Item Number 11. And we're
3 of the opinion that this item should be taken out of the
4 DRS regulations in their entirety. The statute that
5 drives the need for the DRS regulations simply says that
6 disposal operators are to report tonnage information based
7 on jurisdiction of origin for the purpose of jurisdictions
8 to be able to track their disposal tonnages for reporting
9 their diversion goals and whether or not they achieve
10 those. The statute has no mention of the use of DRS, nor
11 the need for DRS, to track landfill capacity. And we
12 think this regulatory burden on the industry that could be
13 implemented is inappropriately placed.

14 I went back and did a little bit of additional
15 searching on this and found a couple of items from past
16 Board hearings that seems to me that the Board really
17 directed staff to stay away from this issue in the DRS
18 because of its burdensome nature.

19 And I will remind Board members and folks in the
20 audience that the statute for the DRS also says that the
21 DRS shall not be a burden on the industry. So contrary to
22 staff's comment that it's just another line item on a
23 quarterly report, to me, it may come across that way to
24 staff and to you as Board members as a line item on a
25 quarterly report to report remaining capacity, but it is

1 not that simple. I've had discussions with staff to this
2 effect.

3 To give you some idea, internally, in order for
4 us to come up with that simple line item, we have to do
5 appropriate engineering. We have to do appropriate
6 surveying. We have to have appropriate internal controls
7 set up. We're subject to our own internal Audit
8 Committee. We're subject to our own financial auditors
9 that this one line item we simply report is accurate. We
10 have to have all these controls set up to provide that one
11 simple line item. So it is a burden on us and I would say
12 the rest of the industry.

13 But let me get to where I think the Board
14 directed staff in a different manner on this item. I went
15 back to August of 2004 where the item in front of the P&E
16 Committee was on the solid waste facility permit
17 application. And there was in the minutes from that,
18 Board staff member makes this comment that "staff
19 originally proposed the idea of new regulatory requirement
20 for landfill operators to submit annual remaining landfill
21 capacity data." And staff originally proposed that idea
22 at the February 19th, 2002, Board meeting.

23 So I went back to this. And, in fact, there was
24 an excellent discussion item on this where staff brought
25 forward to the Board an item for discussion and direction

1 about whether or not they should start a different
2 regulatory package, including DRS, to come up with
3 landfill capacity data in response to the State Auditor's
4 direction that the Board really needs to keep this.

5 Board Member Jones at that time had a pretty
6 lengthy thought process on this and essentially arrived at
7 the conclusion that the Board really ought to look
8 internally at the information it has available and what
9 was touted at the time as the best computer system in all
10 of the CalEPA agencies that they, in fact, could come up
11 with these reports from just existing internal sources.
12 And Board Member Jones commented that this is certainly a
13 way that would be less of a burden for people to go
14 through rather than coming up with another mandate on
15 industry.

16 Board Chairperson Moulton-Patterson at the time
17 commented she couldn't agree more with that direction and
18 accordingly directed staff to pursue internal sources to
19 be able to respond to the California State Auditor's
20 requirements.

21 Following up again going back to August of 2004
22 on this discussion item, the same staff member saying that
23 the Board had given staff discussion in February of 2002
24 commented following up again said, "At the time the Board
25 directed staff to look at existing systems of data

1 compiled by other Board programs to use as possible
2 sources of remaining landfill capacity information and
3 eventually approved the continued use of solid waste
4 facility permit application form for this very
5 information."

6 So how we went from that to this item showing up
7 in the DRS is kind of a mystery. I couldn't find anything
8 else in the public record, transcripts, or otherwise as
9 far as different Board staff direction than what was
10 provided on this item.

11 There were a few public comments on that. In
12 fact, Mr. Smithline, sitting in the audience today,
13 commented this seemed like the best way to go about
14 obtaining landfill capacity information on a quarterly
15 basis, use the existing systems.

16 So, again, I'm not quite sure how we got to this
17 point where it shows up in this reg. You know, I hesitate
18 to think that Board staff found that yet -- it takes a lot
19 of work to arrive at these line item numbers. And maybe
20 it's not something we really want to put the effort into
21 and instead we'll toss it over onto industry and put the
22 burden on them. But with all the talk around the state in
23 current administrations about driving up the cost of doing
24 business in the state of California, I would think that
25 certainly runs counter to that overall policy. But more

1 specifically, it seems to run counter to the direction
2 that the Board itself provided not only in February of
3 '02, but more recently acknowledged in August of '04. So
4 we certainly would like to see this item removed in its
5 entirety from the proposed DRS regs. Thank you.

6 DEPUTY DIRECTOR SCHIAVO: I would like to have
7 some -- before we move on to Scott, I would like to have
8 some clarity from our P&E staff regarding the context of
9 some of the comments made as well as how we got to where
10 we got.

11 DEPUTY DIRECTOR LEVENSON: Thanks, Pat.

12 Howard Levenson, Deputy Director for Permitting
13 and Enforcement. With me are Bernie Vlach and Garth Adams
14 who were involved in the various discussions that have
15 been going on over the last few years. There's a number
16 of items that Mr. Gambelin brings up.

17 First of all with respect to going back all the
18 way to 2002, there certainly was discussion at that point
19 in time about what kinds of systems we could use and
20 looking at our own internal databases. Staff at that
21 point, even in the June 2002 item, indicated we would
22 still be looking at BOE data and DRS tonnages to estimate
23 remaining capacity. But at that point in time from a P&E
24 staff perspective, we were working on revisions to the
25 solid waste facilities permit application. That's what

1 came before you in August of 2004.

2 That particular regulatory package has a
3 provision for updating capacity information based on a
4 once every five year survey. So at the time of the permit
5 review, operators are required to do a survey and update
6 that information.

7 In the context of that regulatory package,
8 statements were made at the August meeting by staff that
9 we could calculate capacity using that once every five
10 year survey information. However, that was only in the
11 context of those regulations. We were still looking at,
12 can we calculate or come up with a method to calculate
13 capacity more accurately in response to the Bureau of
14 State Audits Report and the Board's direction in 2002 to
15 look at better ways of calculating capacity.

16 The only existing mechanism that we have to get
17 more accurate information that we could use to calculate
18 capacity is the DRS regulations. The quarterly
19 information that operators provide on tonnage, if linked
20 with some kind of conversion factor in that report, would
21 provide us with a very accurate means of calculating
22 capacity. And we need that information for a variety of
23 reasons. One is for the Board to be able to respond to
24 inquiries about remaining capacity on a statewide basis or
25 regional basis or site by site basis. We also need that

1 kind of information so we can track when sites are
2 approaching closure and when their final closure plans
3 need to be submitted and for a variety of other pieces of
4 information.

5 So I think that, while Mr. Gambelin has quoted
6 the transcripts accurately, I think there's a different
7 context for the discussions that were going on at that
8 time. We're still looking at we could give you an
9 estimate. It couldn't be a very good one using the
10 information off the permit application, and how can we get
11 better information.

12 So we feel as staff -- and I believe this is a
13 consensus among staff, that the DRS are the appropriate
14 spot to gather additional information. We understand
15 there are questions about how much is involved in
16 reporting that information. We've had discussions with
17 Mr. Gambelin about the use of the information that they
18 generate on a yearly basis and providing the best
19 estimates.

20 The proposed regs do have a couple of different
21 ways that operators can provide that information. And,
22 you know, we think there's a lot of flexibility. And I
23 think it really comes down to if there is a provision in
24 the DRS regs, how accurate does the Board want that
25 information to be? If we have quarterly information, we

1 can look at seasonal variations, link it up with the
2 tonnage data, and provide you with a very accurate picture
3 of remaining landfill capacity. If it's annual, it will
4 be good information, but it won't be quite as accurate.
5 If we have to rely on the permit application, it will not
6 be very good information. Just be an estimate based on
7 one point in time that people report differently at
8 different times and different methods. So I've rambled
9 on.

10 CHAIRPERSON MARIN: Other comments regarding
11 this?

12 I think Scott was first and then the other
13 gentleman.

14 MR. SMITHLINE: Scott Smithline, Californians
15 Against Waste.

16 You know, actually, I'm just going to review
17 this. Why don't you come back to me.

18 MR. AIYETIWA: My name is Martin Aiyetiwa with
19 Los Angeles County Department of Public Works.

20 We do support the speaker that is opposed to Item
21 11. We believe that Item 11 does not belong in the DRS
22 regulation. The Waste Board currently collects that
23 information in the siting element. Los Angeles County,
24 every year, we provide an annual report on the countywide
25 siting element regarding the status of all landfills in

1 Los Angeles County. And information is available to the
2 Waste Board. We do believe that the Waste Board has some
3 means by which this information to be collected and does
4 not belong in the DRS regulations. Thank you.

5 MR. SMITHLINE: Scott Smithline, Californians
6 Against Waste.

7 Madam Chair, if I may just take a moment to
8 respond since I was just quoted as saying something I
9 don't think I actually said. I have now a copy of my
10 prior testimony at the Permitting Committee that was
11 mentioned. And I think the point I was making was that at
12 that time I agreed this was important information for the
13 staff to have and for the Board to have. And when I made
14 the comment, I didn't think an additional regulatory
15 package was required. I thought, well, you could put this
16 into the permit revisions at that time and avoid having an
17 additional package.

18 I don't care what package you put them in. I
19 think information is important. This package seems to be
20 just as efficient as that package. My point was not to do
21 an additional individual regulatory package to get that
22 information. And I still believe that information is
23 critical for the same reason I did at that Permitting and
24 Enforcement Committee meeting.

25 DEPUTY DIRECTOR SCHIAVO: Additional comments

1 regarding these two items? Any comments?

2 CHAIRPERSON MARIN: I have two items. One is on
3 the date. I thought we had suggested January 1, 2006.
4 What I have here is 4-1-2006.

5 DEPUTY DIRECTOR SCHIAVO: It was suggested by one
6 of the hauling companies, and I was going to -- that
7 doesn't mean that's our recommendation. That's what the
8 suggestion was. And on several of these items, some of
9 these require clarification, because it wasn't very clear.
10 Some of these are a matter of opinion or they
11 were suggestions. So what we're doing is addressing what
12 the suggestion was, hearing comments, and then we'll make
13 a recommendation. And in some cases we don't -- and
14 you'll see on the next slide, we don't have a clear
15 suggestion even at this point in time. And that's what we
16 want to do, is solicit comments here so we can clarify
17 some of that. So you're right.

18 CHAIRPERSON MARIN: And then on landfill
19 capacity, I wasn't here in 2002. So whatever my wonderful
20 colleagues at that time said, it's fine and really good.
21 And I appreciate that. And they know a lot more about
22 certain issues than I certainly do even as of today.

23 However, we are here today. And the question --
24 and I was here with the Permitting and Enforcement
25 Committee where I heard loud and clear from the industry

1 saying this is not where landfill capacity should be. And
2 so at that point in time, if my recollection is clear, it
3 was suggested and agreed it would go to the DRS.

4 Now, you know, I cannot cite specifically the
5 language and everybody that agreed to do that, but I do
6 have a very clear memory. And the reason I agree with
7 industry at that time is they felt that if it was in the
8 permit, that that would be a reason to be denied. And we
9 specifically -- and if my recollection is clear, we did
10 not want to use that to deny a permit. And that's why we
11 agreed it would go to the DRS.

12 You can't go and say don't do it here. We agree
13 it should be there, and then when it's time to do it
14 there, say, "No, we don't want it there either." That is
15 not right. That is not fair. And I feel very strongly
16 about that only because I agreed totally with industry at
17 that point in time. To change it now here also without
18 another, where would it go then?

19 So as far as I'm concerned, it was a gentlemen's
20 agreement. Even though I'm not a gentleman, I act like
21 one. I would strongly suggest that this is what was
22 agreed on a gentlemanly way, and I would very much suggest
23 that we stand to that.

24 BOARD MEMBER WASHINGTON: Madam Chair.

25 Pat, in the case of Waste Management raising the

1 concern about the later effective date and process with
2 the Legislature, what position would we then be in if the
3 hypothetical that he gave were to occur? Would we have to
4 come back and do some things and then -- how does it work?

5 DEPUTY DIRECTOR SCHIAVO: Not necessarily. Just
6 depends on what the legislation looks like. If it's based
7 on the current -- it's almost like a spot bill. But what
8 it does -- SB 420, for instance, just says to raise the
9 bar to 75 percent. Well, if that's the case, you would
10 still be utilizing the same tools, disposal reporting,
11 base years, adjustment factors the way that is written.
12 If it's more along the lines of something -- you know,
13 there's one proposal that we've been playing with I'll
14 come back to the Board in June, and that would still
15 require disposal reporting. Almost every system is going
16 to require some form of disposal reporting unless it's
17 totally void of counting.

18 But then when we've held our workshops to date
19 with all the different working groups that we had within
20 those, almost everybody wanted to have some form of
21 accounting. And I believe out of the 13 groups, you know,
22 130, -40 people, there was only one group that was
23 possibly opposed to having any kind of accounting and just
24 base it on programs only. But that was early on in the
25 process.

1 And when I met with several different people,
2 people talk in terms of having some form of accounting.
3 What that means in the future, I don't know, because it
4 just depends on what kind of alternative bill would look
5 like in the future. What shape would it take? Does it
6 deal with disposal reporting yet? Is it based on
7 county-wide reporting? If that's the case, then it would
8 require some minor changes. If it's based on
9 jurisdictional reporting, it would be essentially the
10 same. Is it going to be regional? If it is regionalized,
11 again, there would be minor changes. So most likely
12 you're always going to require some sort of disposal
13 reporting, because that's the guts of what we're trying to
14 get at is reduce disposal.

15 Any other?

16 We'll go on to the next slide.

17 MR. BOONE: Arthur Boone from Total Recycling.

18 The Board may not be aware, but the original
19 proposal of 939 in the Assembly was that the amount of
20 waste that would be allowed in the state of California
21 would be reduced by 5 percent per year. There would be a
22 liability for specific jurisdictions, but the point of
23 measurement would be at the landfills and disposal sites
24 themselves. There was no concern about calculating
25 diversion or base years or any of that kind of stuff. It

1 was a very simple, straightforward measure.

2 The Senate came in with the 25 and 50 percent,
3 which got us into diversion counting, which everybody
4 found very difficult and got tossed out fairly early. But
5 there's still a lot of problems with diversion counting
6 and a lot of problems with base years. So I think you're
7 going to see in the Legislature more and more concern
8 about how much material is going into the landfill.

9 In 2003, you had 40.2 million tons. In 1989, you
10 had 44 million tons, if I recall correctly. So all the
11 efforts over the last 16, 18 years have essentially
12 enabled the amount of solid waste in California to remain
13 relatively static. That is, if there is as much diversion
14 as your figures claim, and there's a lot of lack of
15 independent verification of those numbers, which create
16 other problems. But I'm working on a report on that, and
17 I hope it will be available in a month or so. Thank you.

18 DEPUTY DIRECTOR SCHIAVO: On to Items 12, 13, and
19 14. And these will all be pretty entertaining for all of
20 us. I would like to remind everybody that's out in web
21 land that you can go ahead and e-mail us your thoughts and
22 especially regarding this slide. We saved the best for
23 last.

24 Item 12 deals with daily reporting requirements.
25 Right now, the requirement is one week per quarter. It's

1 designated week per quarter through the regulatory
2 process. We've been moving forward with daily reporting.
3 About 60 percent or more of the state is currently doing
4 daily reporting. And one of the suggestions is rather
5 than having weekly or daily reporting, maybe we could
6 default to having one particular month during each
7 quarter, which is kind of a compromise position.

8 Item 13 has to do with access to and review of
9 record requirements. There's currently a requirement for
10 records review in statute. We're trying to tighten those
11 up. What we're looking for is some kind of position of
12 moderation for both sides. Jurisdictions definitely need
13 to see the records and need to verify faulty reporting.
14 But, again, haulers need to make sure that people don't
15 become overzealous. And also they have to protect, you
16 know, their business records that are the heart and sole
17 of their operation. So we're looking at some kind of
18 position here where we can serve both sides' needs.

19 And, finally, Number 14 is request for preemption
20 of local authority not to exceed state standards. And,
21 again, I just want to mention these aren't our
22 recommendations. These are just comments that we've heard
23 in this particular slide more importantly, because these
24 are probably the most critical slides in the whole
25 presentation.

1 So I want to go ahead and open these up for
2 comments.

3 MR. KOBOLD: I'm Doug Kobold from Sacramento
4 County. And I'm going to talk first on Item 14, and I'm
5 going to look for Elliot's help on this one.

6 Would this be even legal? Because state laws
7 typically can exceed in stringency over local, and
8 likewise, local over state. I'm not sure this would be
9 legal for the state to say a local government couldn't
10 pass ordinances that would be more stringent than what the
11 state is requiring themselves. So I don't know if you
12 want to jump in on that one, Elliot, or dodge it.

13 STAFF COUNSEL BLOCK: Let me jump in quickly
14 enough to say that is absolutely an issue that we spotted
15 as a potential problem with this. The answer as to
16 whether that is going to end the discussion itself, it
17 doesn't, because it partially depends on exactly what that
18 language looks like. There have been a couple of
19 different suggestions in terms of preemption, some of
20 which have been linked to issues relating to no preemption
21 as long as there is some avenue for compensation for
22 additional work or additional requirements, that sort of
23 thing.

24 So the flat-out preemption one definitely is
25 problematic, because we have another statute that says

1 nothing prohibits local jurisdictions from adopting more
2 stringent requirements. But something less than just the
3 flat-out preemption may work. It really just kind of
4 depends on what it is.

5 Really, part of the purposes of today's workshop
6 is to get comments from folks and get some direction from
7 the Board. If we even want to go there, at that point we
8 can start looking at what's essentially defensible or not.
9 If there's really no interest on the part of the Board for
10 us to even write some language on that, just speaking from
11 my own personal point of view, I don't want to spend weeks
12 researching the issue if we're not going to go there. But
13 it absolutely is an issue we'll have to deal with.

14 MR. KOBOLD: Thank you for the input.

15 Also, I took a little time this morning to throw
16 together some numbers to kind of look at how DRS can be
17 impacted by a variety of methodologies for tracking
18 origins.

19 And Sacramento County hosted five OLA staff
20 members some couple months ago to go over the Sacramento
21 County DRS system and how we allocate disposal tonnages.
22 But looking at, just for example, one facility, Keifer
23 Landfill for the second quarter of 2004 and how a one-week
24 per quarter survey impacts a jurisdiction versus daily
25 origin surveys versus what we do at Sacramento County.

1 One that would stand out as an eyesore would be City of
2 Auburn. According to the one-week per quarter, they would
3 have got allocated 4500 tons. According to the daily
4 survey, it would have been 1,000 tons. And according to
5 our own methodology, it was about another 1,000 tons.
6 Very little difference there according to our own
7 methodology.

8 Rocklin would have been 7 tons according to the
9 one-week per quarter survey, versus 40 tons on daily, and
10 92 according to our own methodology and how we allocate.

11 Somewhat striking, Rancho Cordova, 4900 tons on
12 one-week per quarter; 4600 on the daily; but 8600 the way
13 we do it by proper allocation methodologies that are much
14 more elaborate than what the State is prescribing even in
15 the current regs.

16 More closer and dear to our heart is Sacramento
17 County. We would have been 97,000 tons for that quarter
18 under the one week per quarter; 109,000 in the every day;
19 or 75,000 according to our methodologies. This may seem
20 like it's a little biased, but that is how the method
21 works.

22 Finally, unincorporated Yuba County would have
23 been 70 tons in the one-week per quarter; 9 tons via the
24 daily survey; and 9 tons versus on the regular Sacramento
25 County methodology.

1 What it means to me is that it speaks that the
2 one-week per quarter can severely impact a jurisdiction,
3 especially smaller ones, versus daily origin survey. I
4 know quite a few facilities that do daily origin survey
5 with no increase in time, effort, staff, or very little,
6 if that. It's just another field to plug into as the
7 vehicles are running through.

8 For Sacramento County, the residential waste
9 stream represents about 30 percent of the stream;
10 commercial, about 30 percent; and self-haul makes up the
11 rest. Now, there's been some discussion in the past that
12 self-haul is the culprit. It's one piece of the pie.
13 Residential, we've got a good handle on that. We do all
14 the collection. We know where that's coming from.

15 On the commercial, under what we're doing
16 currently in Sacramento County, we're actually getting
17 dispatcher information from the haulers themselves and
18 getting much more accurate information than we've ever got
19 in the past. And it is a little bit of pain, but it's not
20 a great deal, according to the haulers I've been working
21 with.

22 And then the self haul, they're going to be
23 difficult. But if we do daily origin survey of all loads
24 coming in, all the customers of all these facilities are
25 going to get used to being asked the same question.

1 They're not as likely to dodge the question and think
2 their rates are going to go up higher if they answer the
3 question the wrong way. So Sacramento County staff is
4 very supportive of the way the DRS regs have been
5 generated to this date.

6 So I'll open it up to any questions Committee
7 members may have or any audience may have.

8 MR. HELGET: I guess with that presentation, I'm
9 wondering if we shouldn't be auditing Sacramento County
10 with that variance.

11 I don't disagree with anything that you said
12 about the reporting system. I think the daily reporting
13 system certainly is still going to have flaws in it, but
14 it is going to be more accurate. I don't think anybody
15 can argue it wouldn't be. I think what we would argue is
16 there's got to be a fair balance between how frequently
17 we're doing this, the recordkeeping requirements that are
18 associated with this daily monitoring, and then the
19 auditing requirements that follow that to make sure it's
20 accurate.

21 I think one thing we do know is whether we do it
22 daily, monthly, quarterly, we're still not 100 percent.
23 It's still not going to be 100 percent accurate, because
24 you are asking someone a question. Yes, there will be
25 more familiarity. What we suggested is there needs to be

1 a balance between what we're doing now in the quarterly
2 surveys and these daily surveys. And that would be a
3 balance of doing a monthly survey per quarter, certainly
4 increasing it, and then seeing what the accuracy of that
5 is. I think it indicates you're getting a higher level of
6 accuracy for less significant requirements on
7 recordkeeping and auditing and the follow-ups and all
8 that. So we could suggest that would be a balance between
9 the daily reporting requirements and what we've got now.

10 The preemption Item 14, I don't know if Yvonne is
11 answering my phone calls anymore. I've tried to talk to
12 her about this. But certainly one thing that we have --
13 we're not advancing total preemption, because I think we
14 would accept the fact that Elliot would spend way too much
15 time in the law library, and we certainly like to see him
16 around the Board meetings now and then. I don't think
17 that's what we're advancing.

18 What this proposal came forward as -- and out of
19 some conversations I had with Yvonne, is that there needs
20 to be a balance between what we're being required to do in
21 these Disposal Reporting System regulations. If we all
22 sit down and say we're going to improve the system, and
23 we're going to do this, where is the balance between we're
24 going to get this system in place and a huge amount of
25 other requirements being stuffed down us from other

1 directions, because everybody is trying to track that last
2 500 pounds of waste and make sure it doesn't get
3 associated with their jurisdiction.

4 So I think that was advanced to continue to keep
5 in this conversation the fact that there needs to be a
6 reasonableness threshold applied to everything we're
7 trying to do with DRS. It isn't a system that is a
8 mathematical certainty. It's a system that's fraught with
9 speculation or fraught with estimations. And honesty
10 certainly is a big part in it. How accurate is the
11 information we're getting?

12 And the Board has to decide ultimately how much
13 burden they're going to be setting down on operators to
14 get to that level of certainty. It's a balance. And
15 we're suggesting -- and the daily reporting requirement
16 that the balance has struck halfway between.

17 Preemption may be a strong reference. And I
18 guess I would like to try to keep it on the table so we
19 can have some additional discussion on this topic. And I
20 think preemption is probably the wrong word. But where is
21 that balance between what we're going to be required to do
22 and consistency in the requirements across the state.

23 MR. NAYLOR: Bob Naylor representing Waste
24 Management.

25 On the daily reporting requirements, as you know,

1 Madam Chair, Waste Management is opposed to the daily
2 reporting. We were attracted to the one month per quarter
3 as a compromise. The reason we're opposed to daily
4 reporting is we're not convinced that it increases
5 accuracy to the extent that it increases costs,
6 unreimbursable costs. In public opinion polling, they
7 regularly take samples of statewide California's 14
8 million voters. And they take an 800 sample, and it's
9 accurate within plus or minus 5 percent. We don't
10 understand why one week a quarter doesn't produce roughly
11 that accuracy. But if the suggestion is that one week per
12 quarter can be gained by the people reporting, we think
13 one month per quarter is going to be pretty hard to gain.

14 And I just have to reiterate our question about
15 whether there is even authority to go to the daily
16 reporting. The statute speaks in terms of periodic
17 reporting. And in the 1994 Statement of Reasons, which
18 accompanied the current regulations, I quote from page 25,
19 "mandated continuous surveys would be too expensive and
20 exceed the statutory provision on periodic tracking
21 surveys." The statute hasn't been changed since then, and
22 I'll just quote a relevant couple of sentences from the
23 statute.

24 "The Board may adopt regulations pursuant to
25 this section requiring practices and procedures

1 that are reasonable and necessary to perform the
2 periodic tracking surveys required by this
3 section and that provide a representative
4 accounting of solid wastes that are handled,
5 processed, or disposed. Those regulations or
6 periodic tracking surveys approved by the Board
7 shall not impose an unreasonable burden on waste
8 handling, processing, or disposal operations."

9 We think it's pretty clear that the staff was
10 correct in 1994 in the Statement of Reasons in that daily
11 reporting is not authorized and would take a statutory
12 change.

13 MR. BOONE: Arthur Boone, again, Total Recycling.

14 In 1989, I was the sort system supervisor in a
15 dirty MRF in Oakland, California. We were the first dirty
16 MRF in Northern California outside of San Francisco. And
17 we got loads, and my boss and Waste Management had been
18 suing each other, and they settled the case by Waste
19 Management delivering loads of trash to our facility.
20 What we found is that the loads from Hayward had a lot
21 more goodies in them. Wood and cardboard, which was our
22 predominant material we were pulling out of the trash,
23 versus city of Oakland.

24 The reason for that was that the city of Oakland
25 has five independent facilities which are paper packers.

1 And people would go out in pickup trucks. Every business
2 in Oakland had a chance to get rid of their cardboard for
3 free, and it wasn't in the trash. They had other
4 materials, but not as much cardboard.

5 Hayward, on the other hand, had a lot of
6 cardboard, because it was only the bigger places that
7 essentially recycled their cardboard. All the smaller
8 businesses put them in front loader bins which ended up in
9 front loader trucks, which ended up in our facility.

10 So the contribution to our facility from the
11 various cities would be one thing, but the diversion from
12 our various cities would be something else all together.

13 Now you all haven't begun to deal with this
14 problem. But if I were in the city of Hayward, the price
15 of cardboard was low. The people who run the pickup
16 trucks are going to drop out of the business. All my
17 cardboard is going to go to Oakland to get picked out in a
18 dirty MRF. Eventually, somebody is going to have to deal
19 with that.

20 The first thing I would want as an employee of
21 the city of Hayward is I would want to basically be able
22 to monitor that facility in a more closer fashion perhaps
23 than the State would in a way that the State regulations
24 haven't addressed it. Thank you. Just a problem.

25 MR. KAPUSCIK: Thank you. Good morning, Madam

1 Chair. Gerard Kapuscik, Ventura County.

2 Mr. Schiavo was correct. He did save the best
3 for last. With respect to Item Number 12, if market
4 development is the heart and sole of AB 939, then DRS can
5 certainly be characterized as its quantitative conscious,
6 because it is important as a measurement. And it is also
7 our calculus. If you remember your high school
8 calculus, if you increase the number of points on the
9 curve, in a dynamic phenomenon, you will increase both the
10 accuracy and the truth of the direction.

11 While we cannot get 100 percent perfection, we
12 ought to be looking for the truth. The truth is important
13 here, because consequence is obtained from those
14 quantitative numbers. And you cannot manage what you
15 don't measure.

16 I find the gentleman's comment from Waste
17 Management interesting, because in 1999, primarily driven
18 by L.A. County's move to daily reporting, Waste
19 Management's landfill in Simi Valley and Ventura County
20 has successfully moved to daily accuracy reporting and has
21 worked with us in all 11 jurisdictions. And the fact that
22 60 percent, if Mr. Schiavo's characterization is accurate,
23 is now reflective of daily reporting, I think you ought to
24 leave this alone.

25 I think the regulations provide for a quarterly

1 survey frequency certainly one week per quarter or one
2 week per month or as might be effective compromise. But
3 leave locals the ability to more effectively meet these
4 goals. And that really drives the issue of Number 14.

5 Do not go there. There is a long-held political
6 compact between the state and local governments. We
7 understand that you have regulations that establish a
8 consistency and standard for DRS, and we would agree with
9 the hauler representatives that we ought to work together
10 on that.

11 But there are requirements at local levels
12 through fee ordinances, through hauling ordinances,
13 through regulations that require us to get more
14 information than DRS in order to work with haulers to have
15 programs reflect the change of waste streams. Do not
16 interrupt that. You will create a major problem,
17 regardless of whether it's legal or not. And I think it's
18 totally illegal for you to do that. But, to me,
19 politically, I think you should not go there.

20 Number 13, the access to and review of records, I
21 think that's obvious. You cannot have an accuracy-based
22 system, a truth-based system without transparency and
23 accuracy of those who are affected.

24 And the only question or suggestion I would have
25 to you is you may wish to define what constitutes

1 confidential information. Some haulers and facilities
2 have said aggregation of tons by jurisdiction of origin is
3 customer sensitive confidential information. It is not.
4 Customer lists, customer information may be, depending
5 upon the relationship between the hauler and the
6 jurisdiction and these local regulations. But
7 jurisdiction by origin, aggregation of tons by material
8 type, where is it coming from cannot be confidential
9 information in order for us jurisdictions to comply with
10 the statute in your regulations.

11 So you might spend some time, Elliot, looking at
12 that question and defining that issue. That may be more
13 helpful to both jurisdictions and haulers and facility
14 reps than the preemption issue.

15 MR. AIYETIWA: My name is Martin Aiyetiwa with
16 Los Angeles County Department of Public Works.

17 I would like to support the last speaker that
18 Number 14 should not be considered by the Waste Board,
19 because it creates a lot of problems for Los Angeles
20 County. In Los Angeles County, we have about 120 waste
21 haulers, and we have about 89 jurisdictions. The County
22 itself does not have control of our waste pick up in the
23 unincorporated areas. And, also, we do not have control
24 of our waste picked up in each of the cities. So it is
25 very difficult for us to comply and also to meet the

1 requirements under the State's Enforcement Policy Part II,
2 which requires the County to implement diversion programs
3 at the same time to implement a measurement system.

4 So for the County to be able to do that, we have
5 to have the necessary tools that allow us to comply. And
6 in taking Item Number 14, we take away one of the tools
7 that we have used, and we continue to use to meet the
8 State's requirement. So we would request that in Item
9 Number 14 it should be taken off the table. Thank you.

10 MR. KOBOLD: Doug Kobold from Sacramento County
11 again.

12 Just want to speak a little more on daily
13 reporting, Item Number 12. In 2002, Sacramento County and
14 the City of Sacramento and City of Citrus Heights all
15 combined as -- they're made up of the Solid Waste
16 Authority -- enacted Ordinance 9, which required all
17 facilities within the Solid Waste Authority region to
18 collect daily origin tonnage information.

19 Prior to that enactment, all the major
20 facilities -- this ordinance was really directed at two
21 who would not do it daily. All the other facilities were
22 doing daily origin survey already before that. So the
23 resistance to facilities collecting this daily origin, it
24 seems to not hold too much water with me personally.
25 Because when you've got major companies, including BFI,

1 already doing it, it seems like it should be very easily
2 done.

3 Furthermore, as we progress in our system and how
4 we evolve our DRS allocation system, I'm beginning to get
5 some resistance to changing from the daily origin survey
6 information for commercial haulers where we're going to
7 get the information directly from the dispatch records.
8 I've got facility operators saying, "We want our
9 attendants to still collect the daily information, because
10 we want them to have the consistency so they don't know
11 when they should or shouldn't collect that information or
12 who they should or should not collect the information
13 from."

14 If we're currently under a one week per quarter
15 system and these attendants at these facilities who are
16 the front of where all this information comes in, they're
17 the input device for this information, if they're already
18 trying to figure out is it a survey week or not a survey
19 week, do we have to be reminded when it's a survey week, I
20 think that creates more confusion than just having daily
21 origin always doing the same thing every day. It's
22 consistency.

23 MR. HELGET: Chuck Helget, Allied Waste, BFI.

24 I would agree that we certainly do do daily
25 reporting here in Sacramento County. We have a very new

1 transfer station and a transfer station that's very
2 adaptable to doing that type of daily reporting. We also
3 in other parts of the state have a wide variety of
4 reporting requirements, and those requirements have worked
5 I think reasonably well at many of those facilities. So
6 the fact we're doing daily reporting here in Sacramento
7 County and that we're doing something in Los Angeles
8 doesn't have a whole lot of bearing on what these
9 regulations are going to require. And these regulations
10 will require that every facility across the state do at
11 least this much.

12 And there will be problems in adapting to these
13 regulations. I don't know if anybody knows exactly for
14 sure how many facilities in the state are doing daily
15 reporting, but let's assume that it's 60 percent. Forty
16 percent of these facilities are going to have to make an
17 adjustment and some fairly significant adaptations to these
18 regulations, something they haven't been doing over the
19 years.

20 And, yes, quite frankly, Allied's system for
21 collecting information particularly at transfer stations
22 is pretty advanced, and I don't think I've argued very
23 often that it's not something we couldn't do. I think the
24 question is, should we have to do it? And, certainly, we
25 can do anything if there's compensation for it, if it's

1 built into the system from a local perspective up, which
2 we've adapted to in many cases. But that's a different
3 situation than what we're seeing here. It's a state
4 regulation that, once mandated, isn't going to allow the
5 flexibility to open up contracts or franchises to get some
6 compensation for putting in some fairly detailed complex
7 systems. Thank you.

8 MR. GAMBELIN: Donald Gambelin, Norcal Waste
9 Systems.

10 To follow up on what Chuck just commented on,
11 there's some important concepts in there. And I would
12 hate that these regulations lose the perspective of what
13 disposal facility operators and the rest of industry are
14 trying to do. We are simply a source of information for
15 jurisdictions to rely upon in order to meet their state
16 obligations to demonstrate what they are diverting and
17 what they are disposing of. We are just one source of
18 information. Recognize that we're a fairly easy source,
19 because we do -- nobody can deny that we don't track
20 disposal tonnage into our facilities. It's, frankly, how
21 we bill our customers. I don't deny that, and I wouldn't
22 even imply that, we don't know exactly where every load
23 comes from our customers, because we bill them
24 accordingly.

25 But that's business information. That's

1 information for us to run our business. That's
2 information for us to serve our customers. And for the
3 State to mandate that we now turn over that information
4 into the public realm seems to get outside of the need of
5 being a source of information for jurisdictions to know
6 how they're doing on their disposal versus diversion.
7 Again, I think we need to keep that perspective. And,
8 certainly, as we've commented on these proposed regs and
9 worked with staff, we've always had that perspective.

10 Now, if the State wants Norcal Waste Systems to
11 employ a party of people to provide the level of accuracy
12 that you're asking for, I'd be happy to do that. But I
13 need State money or local money to do that. Because,
14 again, you're imposing something else on a business that
15 we are not presently compensated for in order to simply be
16 this source of information.

17 And it's not a source of information that is
18 100 percent accurate. I think everybody recognizes that.
19 In fact, the existing DRS reg simply says that the
20 information that we provide you shall be used to estimate
21 the amount of disposal from each jurisdiction. Now,
22 "estimate" is in there for a reason. And that doesn't
23 mean it is 100 percent accurate.

24 We simply rely on information that we are given.
25 As a landfill or a disposal facility, I rely on

1 information that the hauler provides me as to where this
2 is coming from. I also rely on information that each and
3 every self-hauler who comes to the facility provides me as
4 to their jurisdiction of origin.

5 Provided I have those information sources and I
6 have the controls in place to demonstrate to a
7 jurisdiction or to the Board that I'm getting that
8 information, my obligation should be over with. I should
9 be able to report that, and that's it. But,
10 unfortunately, I think we're suggesting here through these
11 regs and some of the other comments in the room that
12 disposal operators and industry should be held much more
13 accountable for something else. That we ought to be able
14 to go in, that you guys are gaming the system, that we
15 know you are and doing it intentionally. Yeah, there
16 probably are some haulers who are gaming the system. But,
17 frankly, let the City kick the hauler out of its
18 jurisdiction. It has the ability to do it.

19 Don't suggest that the DRS is going to be that
20 mechanism that's going to expose a hauler for gaming the
21 system that's going to allow us to, you know, bring a
22 hauler under control so that he's reporting jurisdictions
23 appropriately. That, to me, gets outside of what this
24 system was designed to do, again, particularly in light of
25 the statute that says make sure you don't make regulations

1 that are burdensome on the industry. And I've said time
2 and again the approach to these regulations and some of
3 the requirements in here are quite burdensome.

4 DEPUTY DIRECTOR SCHIAVO: I'd like to hear some
5 commentary regarding Item 13, the recordkeeping, because
6 that was one of the more controversial ones I heard from
7 the prospective jurisdictions and haulers in trying to
8 find some kind of middle ground between the two.

9 MR. GAMBELIN: Donald Gambelin, Norcal Waste
10 System.

11 Access to review of the records, if I look at
12 this at one point, I'm supposed to provide you
13 information. I'd like to be able to turn that information
14 over to you, and if you have issues with it and you see
15 haulers -- you suspect haulers are misreporting or
16 whatever, go ahead and pursue that hauler. I want to be
17 out of this. This is not what -- I should not be between
18 a hauler and a city. I should not be between a
19 jurisdiction and the Waste Board.

20 Again, I'm simply a source of information. I
21 should be required to demonstrate to the Board that I
22 collect that information, and that once I have that
23 information in hand, I give it to you appropriately. I
24 don't play with it. I don't adjust it. I just simply
25 collect it, and I give it to the Board. As long as those

1 controls are in place, I should be out of it after that.

2 So access to and review of records, again, if a
3 jurisdiction suspects that information coming from me as a
4 disposal operator on a certain hauler, that that hauler is
5 doing something different, go after the hauler. Don't
6 look in my disposal facility records, because I'm just
7 simply a conduit for information, nothing more than that.

8 MR. WHITE: Mark White with Pacific Waste
9 Consulting Group.

10 I'd like to follow up on Don's comment, because
11 our interest is very similar to his, but a little
12 different. On Item Number 13, just as a way of example,
13 we work for two cities; one of which had a one-year burp
14 in its disposal of about 50 percent. The other city has a
15 regular 35 percent self-haul rate. We asked -- and they
16 both use the same landfill. We asked the landfill at one
17 point for records to identify the 50 percent burp and got
18 a dump in a database we could actually sort and figure out
19 who it was and convince your staff, Pat, that we did have
20 a burp that year. It was a simple cleanup thing.

21 The other one, same landfill, two years later we
22 asked for the records because we feel not one of the
23 haulers in Don's frame, but one of our local boys is mad
24 at the city and is having all of his C&D, which he has
25 quite a bit, attributed to our little city. And it's

1 getting us a whole lot of waste. What we got in response
2 to that request was six to eight inches of computer
3 printout, which we're trying to go through, but the
4 columns aren't wide enough to completely show everything
5 we need to know. It's completely useless, but according
6 to the hauler, the only thing that's available. Now
7 two years ago, we had a current database. Two years
8 later, we got a 20-year old database.

9 We don't know what the situation is, but we would
10 strongly encourage the Board to allow open and wide access
11 recognizing the confidentiality of the information. But
12 without details about who it is that's bringing the stuff
13 in, we, as a city, have absolutely no way to go back and
14 get any kind of proper allocation, control of material,
15 diversion of material, anything at all. We really
16 encourage wide access.

17 MR. AIYETIWA: My name is Martin Aiytiwa with
18 Los Angeles County Department of Public Works.

19 I would like to state that in Los Angeles County
20 there are three individual landfill operators and waste
21 haulers, which is Waste Management, BFI, Allied Waste, and
22 Republic Services. And sometimes there is no line
23 dividing a transfer station operator, a waste hauler, and
24 a landfill operator. So it is very difficult to separate
25 those three types of operations.

1 So for the purpose of recordkeeping, I think that
2 if a jurisdiction goes to the landfill operator and the
3 landfill operator will not provide the information to
4 justify that data, he should be able to go to its sister
5 company. For example, if it is also the same company,
6 they should be able to talk to each other and provide the
7 jurisdiction the necessary information that is needed.

8 MR. KAPUSCIK: Good morning. Gerard Kapuscik,
9 Ventura County again.

10 Since I've spoken about truth several times
11 today, I have to be completely honest. Sometimes in the
12 pursuit of the truth, it works to the disadvantage of the
13 jurisdiction. And I will make this story, because it
14 specifically affects us. The access to the records is
15 critical. And the definition of what is required under
16 the regulations versus what is confidential and might be
17 the purview of locale is also an important point.

18 But let me give you an example. We encountered
19 over the last year an operation in which the MRF and the
20 hauling operation own the same company. One would think
21 with that degree of corporate integration, the
22 hauler-related records of jurisdiction of origin would be
23 reflected in the MRF-related records of jurisdiction of
24 origin. They were not. The only way we would have known
25 that is to have access to those records and sit down with

1 them and explain and understand how is it we have this.
2 We have hauler-related reports of our local ordinance for
3 our fee situation, and we have MRF-related reports by DRS.
4 They didn't jive. You have to bring them into
5 reconciliation.

6 That directly speaks to Item 13. Jurisdictions
7 and the public effected by this, but specifically
8 jurisdictions who are required to report to you
9 compliance, have to be able to get access to records
10 quickly, timely, in meaningful fashion, on the basis of
11 material type, jurisdiction of origin, and aggregation.
12 Leave to the locals the ability to enact ordinances, or at
13 least don't interrupt through the locals the ability to
14 enact ordinances and agreements that require perhaps
15 information that may be viewed by some as broaching the
16 line of proprietary but is also necessary as a tool to
17 adjust programs.

18 For example, if we had a 100,000 ton increase in
19 commercial disposal from one year to another, the first
20 thing we're going to do is sit down with our haulers and
21 say let's look at your commercial haulers. Let's look at
22 the growth in your customer base. Where did this happen?
23 How did it grow? What is this material? Is it amenable
24 to diversion? Leave that to us locals to deal with under
25 the local authority of our agreements.

1 But in terms of jurisdiction of origin by
2 material type and aggregation, it must be transparent. It
3 must be public. And there is a requirement by haulers,
4 facility operators, and jurisdictions to keep this
5 information. That's simply the price of doing business.

6 And, yes, the haulers are right. The State did
7 impose that requirement, because when they bill, they're
8 mostly concerned about one thing: Customer accuracy and
9 total tons. They're not necessarily concerned about
10 geographic origin. The State required that as a
11 consequence of this. But that's the rules of the game,
12 and you need to have that process as open as possible.

13 DEPUTY DIRECTOR SCHIAVO: Any other comments
14 regarding these three particular items? And, again,
15 there's going to be time to comment in writing to us.

16 MR. BOONE: Are you going to allow comment at the
17 last slide?

18 DEPUTY DIRECTOR SCHIAVO: This is the last slide
19 dealing with the fantastic 14.

20 MR. BOONE: Are you going to allow comments at
21 the last slide?

22 DEPUTY DIRECTOR SCHIAVO: Yeah. We have some
23 time. We can do that.

24 Any other comments regarding this slide?

25 Board members.

1 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

2 On Item 14, that really does raise a concern for
3 me in terms of preemption of local governments in there.
4 And as an elected official who served in the Legislature,
5 it's very difficult for me to say that local jurisdictions
6 can't raise the level of quality they're looking for when
7 you go out to a bid for these contracts through RFPs and
8 things like that. You pretty much know what you're
9 getting yourself involved in. So that one, for me, is a
10 very difficult one to deal with in terms of -- I do
11 believe it should be taken off the table and that we
12 should let the locals keep control of their authorities
13 over their process.

14 CHAIRPERSON MARIN: Okay. Ms. Peace.

15 BOARD MEMBER PEACE: I think I can agree with
16 what Mr. Washington just said.

17 Also, can I just ask a general question of
18 industry, Waste Management, Allied? When you sign a
19 contract, say, for your hauling with the city or county,
20 what's the average length of time? Is it three years?
21 Five years? Ten years? Is there an average length of
22 time?

23 MR. LARSON: They vary all over.

24 BOARD MEMBER PEACE: Okay.

25 CHAIRPERSON MARIN: They review it on a five-year

1 basis for the most part.

2 I do have a couple of questions and -- actually,
3 not a question, but I definitely agree with Item 14. I
4 understand why industry would want to have that
5 preemption. Coming from local government, I just think
6 that we're getting into very muddy waters if we limit what
7 a jurisdiction may request of their contracting partners.
8 So I really don't see us playing a role in that. You
9 know, for somebody that has consistently advocated for
10 home rule for now to have that somewhat preempted, I would
11 not. I think we would be getting into very, very muddy
12 waters there. So that's that.

13 The daily reporting requirements, I would just
14 want everybody to know that Waste Management has
15 consistency and continuously been opposed to that. So I
16 acknowledge that. I acknowledge that. I also acknowledge
17 the fact that Waste Management does provide that daily
18 reporting to a number of their clients. And so if more
19 than 60 percent are doing that, there's no reason why we
20 shouldn't ask everybody to do that and alleviate the
21 concerns throughout the entire state for all of the
22 jurisdictions.

23 I appreciate the extra work that would be
24 necessary. I understand that. And I've acknowledged that
25 more than once to Waste Management. But I also know that

1 some of their clients already are requiring that. So if
2 they can do it for one, they should be able to do it for
3 all of them. And so they know, consistently, I've been
4 stating that point. So with all due respect, that is
5 going to be a difference at least from my end with them.
6 But I do appreciate their willingness. If this becomes
7 the regulation, they will abide by it. But I do have to
8 recognize that.

9 With that, the next step, Pat, please.

10 DEPUTY DIRECTOR SCHIAVO: Sure. We'll go to the
11 next slide.

12 --o0o--

13 DEPUTY DIRECTOR SCHIAVO: Comments are due
14 4-15-05, 5:00. That means you have seven hours to finish
15 your taxes up. You'll be in great shape. I assume
16 because people are on the website, we've handed all this
17 out, that you know where to send your comments to. It's
18 attached. It's on our website. Instead of reading it out
19 to people on the web, I'll save some time.

20 We're going to take these comments. We're going
21 to try to sort all this out and make sense of it as much
22 as we can.

23 Again, I think Number 13 will be a trick, but
24 we're going to do our best to come up with some kind of
25 language that makes sense of the recordkeeping. It is a

1 requirement in the existing regs. A lot of the other
2 items, as I mentioned earlier, are clarification items.
3 And then we're going to come back to the Board for the
4 opening of the formal hearing process at the May Board
5 meeting.

6 And maybe this would be a good time to have just
7 a general comment, and then you can summarize.

8 MR. BOONE: Arthur Boone, Total Recycling.

9 I'm concerned about the multi-jurisdictional
10 dirty MRF where materials are coming from a number of
11 different cities, are responsible agencies under the law,
12 that their feedstocks are probably the basis on which the
13 material is allocated in that facility. But, in fact,
14 their disposal and diversion figures out of that facility
15 might be very different based on the actual recovery rates
16 of the materials that are actually flowing into the
17 facility.

18 It seems to me that nothing in these regulations
19 deals with that. I'm not sure it's important yet. But I
20 think staff should be tracking how much of the material --
21 how much of what eventually ends up in landfills,
22 particularly from commercial sources, goes through a
23 sorting operation. And is it fair to the cities to
24 basically use the in-flowing tonnages to those facilities,
25 rather than the diversion and disposal allocations of

1 those facilities. I think that's an issue that needs to
2 be tracked.

3 The only way to get recycling is either source
4 separations or centralized separation. If we do more and
5 more centralized if we have differential programs, we need
6 to be able to identify that. I'm not saying the
7 regulations at this time should include that. But I think
8 staff should be aware of this issue and deal with it.
9 Thank you.

10 MR. GRECO: My name is Jim Greco. I'm an
11 independent consultant doing business as California Waste
12 Associates.

13 Pat, can we put the slide up there that has Issue
14 Number 1 on it?

15 I have a suggestion, and I suspect it may create
16 nervous shudders throughout the waste industry. There
17 would be some pause with the idea. But I'm suggesting on
18 Number 1 read, "Haulers' responsibility to identify the
19 origin, material types, and potential recycleability for
20 all loads of certain waste types."

21 Now before somebody says, "Are you crazy," we all
22 know one of the primary moving forces for AB 939 was
23 preservation of landfill capacity, extension of landfill
24 life. Focus on keeping stuff out of the landfill and
25 reducing it. Over the last few years, we've become

1 obsessed with counting diversion. That should equate to
2 disposal reduction, but it doesn't. It's us trying to
3 quantify diversion, rather than what is in the truck and
4 what is being brought to the landfill. And the people
5 that know best which is being disposed are the people that
6 collect the material from the source and bring it to the
7 landfill.

8 So I don't have a solution right now, but I think
9 we need a major mindset change. The idea is what is in
10 those loads that is potentially recyclable. An offshoot
11 of this suggestion is maybe when the Waste Board issues
12 the contracts for the Waste Characterization Surveys, the
13 waste characterization data work, that there might be an
14 element of that contract on the best practical judgment of
15 that contractor in the material that's being put into the
16 landfill that may be potentially diverted.

17 MR. LARSON: George Larson representing Waste
18 Management.

19 Just a couple of general comments, if I may. I
20 get a sense of discomfort that a lot of the discussions in
21 the room today are kind of being couched in the context of
22 us versus them, where industry is the bad guy and
23 government may or may not be the good guy. And somebody
24 that's in private sector that's helped to achieve much of
25 the success, if not the majority of the success, in

1 recycling in this state under AB 939, which I in 1989
2 happened to be at the table myself when I worked for
3 Mr. Eowan, two rows back, who was Executive Officer. I
4 think some of the accounts from Mr. Boone are accurate,
5 but I will assure you it was not contemplated at that date
6 that we would be having this discussion about
7 micro-managing the accounting systems for the success of
8 AB 939.

9 I think it is a success, so we should revel in
10 our success and step back, which I think people of logical
11 persuasion of thought process are trying to say it's time.
12 I mean, it's 15 years ago. We did achieve what AB 939 set
13 out to do. We need to move to a higher order now. And I
14 think the Legislature is contemplating, the Board is
15 contemplating, individual interest groups are
16 contemplating how we can get to that next level. If we
17 mire ourselves in 76 more pages of regulations about a
18 system that I think everybody agrees is broken, it isn't
19 going to solve the problem.

20 Just by some of the testimony given today, County
21 of Sacramento reports 30 percent residential, 30 percent
22 commercial, 40 percent self-haul. No one knows about the
23 self-haul stream. Whatever we do to the set of
24 regulations to so-call fix it has a 40 percent error
25 factor going in. Let's focus on getting that self-haul

1 stream more accurately reporting first before we go to the
2 nth or whatever digit after the decimal on private sector
3 and public sector reporting.

4 I think that's probably the gist. But I guess
5 I'm maybe jaded over the years, but I think we're missing
6 the point. We've done, the State of California, this
7 Board, local government, private sector have achieved huge
8 successes. Why don't we just back off a little bit and
9 take a look at the whole landscape and then just figure
10 how we can move forward beyond 50.

11 And there's going to be a law out there that says
12 get to 75. Because they're not going to tell you how.
13 You're going to have to come up with the answer. It's
14 going to be translated down into local government
15 contracts on haulers and facility operators, I'm sure,
16 because they do vary across the entire spectrum as to how
17 local governments seek to meet their requirements.

18 And I, for one, even though I know it's the
19 industry position, know we're not going to take that away
20 from local government because they're the first people in
21 the trench and we're right, I hope, beside them, not
22 behind them. Thanks.

23 MR. EOWAN: Hi. I'm George Eowan, California
24 Refuse Removal Council. Since my name was used in vain, I
25 feel compelled to say something here.

1 First of all, I want to say I think the staff has
2 done a remarkable job of trying to improve a system that,
3 I think, really needs improving. Because the integrity of
4 the system is what makes this whole program work. We have
5 successes, but you want to make sure people believe your
6 success. And, you know, there's skepticism out there
7 where are we, and is that a real number? And then it goes
8 from that to, well, should we even worry about numbers?
9 Let's just worry about something else. Well, I submit
10 that numbers got us to where we are. Now, we may not know
11 what that number is all the time.

12 But I think what Pat and his staff are trying to
13 do is get us to a more believable system, a more realistic
14 system, a more truthful system, as the gentleman from
15 Ventura says. I think that's admirable. I think some of
16 the things in these proposals help us get there.

17 Now, at the same time, my colleagues in industry
18 and our own clients feel that you have to be careful,
19 because you can get too onerous, and you end up with a
20 system that just breaks the back of people trying to do
21 the right thing. And so we have to be careful about that.
22 So costs are real. And they make a big difference in what
23 we do.

24 Now, going back 15 years to AB 939, these debates
25 have been going on forever. And this discussion is very,

1 very important. I want to encourage you not to be in a
2 big hurry to finish the discussion. Because as has been
3 said several times, there's a bill and may be other bills
4 that are saying, okay, you've got your success. You've
5 done that. You ought to be able to get 75 percent now.
6 Well, if we can't accurately with integrity say where we
7 are now, then what are we going to do when we try to get
8 to 75 percent? With all due respect to Mr. Greco, using,
9 you know, the best guesses of people driving the trucks in
10 and what's recyclable and what's not, admirable, you know,
11 intention, but I don't think that would work.

12 But on the other hand, maybe we do need a new
13 mindset. And maybe there ought to be more focus on
14 programs in some respect so that helps understand what's
15 going on in the system. Thank you.

16 MR. BOONE: Arthur Boone, Total Recycling again.
17 Last week, we had a recycling update conference
18 in San Francisco sponsored by the Northern California
19 Recycling Association. We had 160 people there. We fed
20 them lunch. We had breaks morning and afternoon. We had
21 4.8 ounces of waste. And if we can find a mylar or
22 plastic bag which we have Ruffles potato chips in, we
23 would have had half of that.

24 Now how is that possible? Because some people
25 cared. The reason we don't have any smoke in this room is

1 because people said we don't want any more indoor smoking.
2 The reason it's hard to raise money for public schools
3 today is because the percentage of people who go to public
4 schools, have family in public schools is going down.
5 Some day, we will have more and more people who don't need
6 a garbage service. And the franchised haulers will
7 surrender their franchises and say, "We can't make any
8 money here. We don't know how to do it." But we haven't
9 gotten there yet. Good luck in your deliberations.

10 MR. WHITE: Mark White with Pacific Waste
11 Consulting Group.

12 I'd like to follow up on George and George and
13 add one more comment. This has been a cooperative thing
14 today. Without the private industry, without government,
15 and without the local government, without the Waste Board,
16 we never would have gotten to here. There's some things
17 that seem like they're on different sides of a fence. I
18 think there's a way to find everybody to be on the same
19 side of the fence or maybe even on the fence. But I
20 encourage you and applaud you guys for making it as
21 cooperative as it is. Thank you.

22 DEPUTY DIRECTOR SCHIAVO: Let's wrap up the
23 comments and have Board member comments to conclude.

24 MR. KAPUSCIK: Thank you. Gerard Kapuscik,
25 Ventura County. First of all, thank you very much. I

1 just want to let you know in preparing for this workshop,
2 I looked at Dr. Strangelove yesterday. I think it's time
3 for us to stop sweating and learn to love numbers.

4 The point here is this public sector
5 representative does not view himself on the opposite side
6 of our private sector partners. It's important that we
7 work at this together, but it is equally important, as the
8 two gentlemen before me identified, that truth as a
9 direction is something we need to spend a good deal of
10 time on. Because the public will not believe or elected
11 officials will not believe the attainment of success if it
12 isn't grounded with some understanding. And we must spend
13 some time on increasing the accuracy, precision, and truth
14 of disposal numbers.

15 As to what the future holds, I agree. I
16 personally believe it is bright and dynamic and chaotic.
17 But out of that will come new ways of dealing with things,
18 because that, overall, is the American way. There's
19 always people with ideas in which to move things to the
20 next level.

21 I do think, however, it is very likely there will
22 be a focus on, regardless of the success of diversion,
23 inferred, extrapolated, or implied, the disposal amounts
24 are not decreasing in an area that is viewed as being a
25 socially important, politically important goal. That

1 makes improving the DRS system even more important,
2 because I personally believe that we will not move to a
3 system that measures diversion every year, because it is
4 too dynamic, too expensive, too complicated.

5 Disposal is the constant. A ton of waste -- and
6 I hate that word -- is going to a MRF, a landfill, or to
7 some other facility. That's the constant. Diversion
8 activity is becoming new all the time. Whether it's
9 conversion, whether it's composting, whether it's what
10 have you. This is probably going to be the best we're
11 going to be able to do, so all the more reason to spend
12 time.

13 Thank you for the opportunity to do this. You're
14 the most pleasant, tough, politically astute regulators I
15 can think of. Thank you for the opportunity to work with
16 you.

17 DEPUTY DIRECTOR SCHIAVO: Thank you.

18 Turn it over to Board members.

19 CHAIRPERSON MARIN: Thank you, Pat.

20 Ms. Peace.

21 BOARD MEMBER PEACE: I was just going to thank
22 staff, because I think our Board does a really good job
23 also of listening to all sides and trying to come up with
24 something we can all live with. Thank you, staff.

25 CHAIRPERSON MARIN: Mr. Washington.

1 BOARD MEMBER WASHINGTON: And I, too, Madam
2 Chair, want to thank all of you. I think, you know, this
3 Board is created by a process of appointees. And I think
4 what we accomplished today in hearing the information,
5 although some might not have been pleased with the outcome
6 and some of the decisions, and issues have not been
7 addressed, DRS has been an issue that has been on the
8 table for a long time. And the day has come when it's
9 time for us to address it and try to move forward.

10 I don't believe there's an issue of -- I didn't
11 hear, George, it was an issue of you versus them. I think
12 it's everybody trying to figure out how to get to where we
13 need to be. And I certainly came with an open mind on
14 either side to figure out where we really need to get
15 there.

16 That's why I made it unequivocally clear I
17 couldn't support the idea of Item Number 14, because I
18 think, coming from local government, and trying to send
19 back a message to them that you can't do more than what
20 we've done is not a clear and certainly not a concise
21 message we should be sending as regulators.

22 I want to thank all you guys for coming to the
23 table and all the time you spend working on this and to
24 get to this point. You really have done what democracy is
25 all about. It's a process, and you guys have worked

1 through that process. And I thank you so much for getting
2 to where you are today on this issue.

3 CHAIRPERSON MARIN: Thank you, Mr. Washington.

4 And thank you, everybody.

5 I do want to say when I was a Council member and
6 a Mayor of the City of Huntington Park, I had the enormous
7 privilege of working both with Consolidated Disposal and
8 Waste Management. And I cannot tell you enough the
9 commitment, the integrity of the people that I worked with
10 from both of those companies. They were both committed to
11 ensuring that Huntington Park would reach the level of
12 diversion that the State mandated. It's been a real
13 pleasure to work with both companies.

14 I did not know George Larson. I know he's a man
15 of incredible integrity. He does a remarkable job for his
16 company. I don't agree with you 100 percent of the time.
17 But I do believe you do an awesome job for your company.

18 I want to thank all of you, all of you, Bob
19 Naylor, Chuck Helget, Don, George, Evan.

20 You know, what we're asking industry to do is a
21 little bit more than what they are used to doing. And I
22 have to acknowledge that. I know that it's difficult, but
23 at the end of the day I think we will have a much better
24 system. And without their input, without their
25 willingness, and their commitment, we're not going to be

1 successful. So I have to thank all of you. And if there
2 are other industry people that I don't know of, please
3 forgive me.

4 But this has been a very enlightening process for
5 all of us. I think at the end of the day we will have a
6 better system. And if by any chance the Legislature beat
7 us to it, then we will be that much better for it.

8 But I want to thank all of you for your
9 participation and your commitment to making sure that this
10 works. So with that, 15th at 5:00 p.m., last comments for
11 anybody that's listening to us still. We will take that
12 to heart, and we will move forward.

13 Thank you so very much. See you next time.

14 (Thereupon the California Integrated Waste
15 Management Board, Sustainability and Market
16 Development Committee Workshop to discuss
17 Potential Impacts/Issues Related
18 to Proposed Disposal Reporting System
19 Regulations Revisions Adjourned at 12:24 p.m.)
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2 I, TIFFANY C. KRAFT, a Certified Shorthand
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13 IN WITNESS WHEREOF, I have hereunto set my hand
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